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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/705,400

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Satoshi Mizutani

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EXAMINER

KIDWELL, MICHELE M

ART UNIT

PAPER NUMBER

3761

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
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3 MONTHS

12/20/2006

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

**Office Action Summary**

Application No.

10/705,400

Applicant(s)

MIZUTANI ET AL.

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 8-10 and 22-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2,8-10 and 22-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the originally filed disclosure does not support the word "Arc-like":

### ***Claim Objections***

Claim 22 is objected to because of the following informalities: the claim recites "both an inner and outer surfaces" in line 8. Either the word "an" or the letter "s" on the end of the word "surfaces" should be removed. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 – 10 and 22 – 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With reference to claim 22, the claim has been amended to recite a "pocket-like" shape and an "arc-like" shape. These terms are considered indefinite because they render the scope of the claim unclear. Is the void a pocket shape or a shape that may

resemble or be associated with a pocket? If so, what does pocket-like encompass?

The same rationale holds true with respect to the term "arc-like".

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2, 8 – 10 and 22 – 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 4-128728.

With reference to claim 2, JP 4-128728 discloses an interlabial pad wherein a side end of the interlabial pad has a shape of an arc, and peripheral ends of the arc converge toward edge ends of a center line of the pad along a longitudinal direction as set forth in figures 1 – 2.

Regarding claims 8 – 10, see figures 1 – 3. The examiner contends that the interlabial pad of JP 4-128728 is fully capable of performing the recited function.

With respect to claim 22, JP 4-128728 discloses an interlabial pad comprising a support sheet, having a peripheral edge that forms an outline of the interlabial pad that has at least one shape from the disclosed group (see figure 2, area directly beneath number 7); a pair of absorbers (2a, 2b); a water permeable cover sheet (figures 1 and 3) covering absorbers respectively, each water permeable cover sheet

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having two portions, corresponding to a shape of each absorber (figures 1 – 2), respectively, and being folded to cover both an inner and outer surface of each absorber, (both figures 1 and 2 show the sheet in a folded position covering an inner and outer surface), respectively, and being bonded such that the two portion of each water permeable cover sheet covering the inner and outer surfaces of each absorber, respectively, are bonded together at the peripheral edge of an upper surface of the support sheet (figure 2); and a pair of voids (area under absorbers in figure 2) formed between each of the water permeable cover sheet and the support sheet, each void having a pocket like shape formed by a peripheral edge portion of the water permeable cover sheets and the support sheet (figure 2), wherein each of the side ends of the interlabial pad has substantially an arc-like shape, peripheral edges of the side ends converging at a center line of the interlabial pad along a longitudinal direction (figure 3) and wherein each of the pair of water permeable cover sheets is separated from the other water permeable cover sheet along a folding portion (figure 2) of the support sheet, so that when the support sheet is folded away from the pair of water permeable covers sheets, the interlabial pad forms the void as set forth in figures 2 and 3.

The difference between JP 4-128728 and claim 22 is the provision that the pad includes a pair of water permeable cover sheets.

JP 4-128728 teaches a single water permeable cover sheet as shown in the figures.

It would have been obvious to one of ordinary skill in the art to provide a pair of water permeable cover sheets instead of a single sheet since the general concept of providing a water permeable cover sheet that covers two absorbers has already been disclosed in the prior art.

The difference between JP 4-128728 and claim 23 is the provision that the cover sheets are separated by 10mm or less.

It would have been obvious to one of ordinary skill in the art to modify the distance in which the cover sheets are separated in order to produce the most effective product since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable range involves only a level of ordinary skill in the art.

As to claim 24, see the rejection of claim 23.

With respect to claims 25 and 26, the examiner contends that it is well known in the art to provide absorbent articles with either an impermeable or permeable material to produce desired results.

With respect to claim 27, the examiner contends that while JP 4-128728 may not explicitly recite a water permeable cover sheet that comprises a porous nonwoven fabric, it would have been obvious to one of ordinary skill in the art to provide the water permeable cover sheet with a porous nonwoven fabric because the use of such a fabric is well known in the art for use as a cover sheet for absorbent articles. Likewise, if the

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entire cover sheet comprises a porous nonwoven fabric, then one can reasonably assume that the claimed areas would be contacted with the porous nonwoven fabric.

With reference to claim 28, see figure 3.

The difference between JP 4-128728 and claim 29 is the provision that the absorber comprises specific materials.

The applicant states on page 21 of the instant application that virtually any material can be used to compose the absorber. See lines 11 – 14.

Absent a teaching of any unexpected result, the examiner contends that it would have been obvious to one of ordinary skill in the art to modify type of material used in order to produce the most effective produce since the general conditions of the claim have already been disclosed by the prior art.

### ***Response to Arguments***

Applicant's arguments filed September 27, 2006 have been fully considered but they are not persuasive.

With respect to the applicant's arguments that the pair of voids formed by JP 4-128728 are closed, the examiner disagrees and refers to figures 1 – 2, which depicts closed voids and open voids, respectively.

Regarding the applicant's argument with respect to using a pair of sheets as opposed to one sheet, see the rejection of claim 22.

Regarding the shape of the support sheet, the examiner considers the support sheet as having an ovoid-type shape as shown in figure 3.

***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.

See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Michele Kidwell  
Primary Examiner  
Art Unit 3761